

Todd M. Friedman (216752)
Darin Shaw (251037)
Law Offices of Todd M. Friedman, P.C.
369 S. Doheny Dr. #415
Beverly Hills, CA 90211
Phone: 877 206-4741
Fax: 866 633-0228
tfriedman@attorneysforconsumers.com
dshaw@attorneysforconsumers.com
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

MELISSA MURPHY,)	Case No. '11CV0689 L MDD
)	
Plaintiff,)	COMPLAINT FOR VIOLATION
)	OF FEDERAL FAIR DEBT
vs.)	COLLECTION PRACTICES ACT
)	AND ROSENTHAL FAIR DEBT
PORTFOLIO RECOVERY)	COLLECTION PRACTICES ACT
ASSOCIATES, LLC,)	
)	
Defendant.)	
_____)	

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

3. Plaintiff, Melissa Murphy (“Plaintiff”), is a natural person residing in San Diego county in the state of California, and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a “debtor” as defined by Cal Civ Code §1788.2(h).

4. At all relevant times herein, Defendant, Portfolio Recovery Associates, LLC, (“Defendant”) was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5), and a “consumer debt,” as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

1 6. In November 2010, Defendant initially contacted Plaintiff
2 connection with an attempt to collect an alleged debt.
3

4 7. On at least one occasion, Plaintiff has requested, during a
5 conversation with Defendant, that Defendant cease and desist from contacting her
6 by telephone and to send her information by mail.
7

8 8. Despite being requested by Plaintiff to cease and desist telephone
9 contact, Defendant continued to contact Plaintiff by telephone in connection with
10 an attempt to collect the alleged debt.
11

12 9. On at least one occasion, Defendant threatened to seize Plaintiff's
13 property and/or garnish Plaintiff's wages for failure to pay the alleged debt.
14

15 10. Defendant's conduct violated the FDCPA and the RFDCPA in
16 multiple ways, including but not limited to:
17

- 18 a) Communicating with Plaintiff at times or places which
19 were known or should have been known to be
20 inconvenient for Plaintiff, including calling Plaintiff
21 after Plaintiff explicitly told Defendant in conversation
22 not to call any more to collect the debt in question
23 (§1692c(a)(1));
24 b) Using unfair or unconscionable means against Plaintiff
25 in connection with an attempt to collect a debt
26 (§1692f)); and
27 c) Threatening Plaintiff that nonpayment of Plaintiff's debt
28 may result in the arrest of Plaintiff or the seizure,
garnishment, attachment or sale of any property or the
garnishment or attachment of wages of Plaintiff, where
such action was not in fact contemplated by the debt
collector and permitted by the law (Cal Civ Code
§1788.10(e)).

1
2 11. As a result of the above violations of the FDCPA and RFDCPA
3 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
4 humiliation, embarrassment, mental anguish and emotional distress, and
5 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
6 and costs and attorney's fees.
7
8

9 **COUNT I: VIOLATION OF FAIR DEBT**
10 **COLLECTION PRACTICES ACT**

11 12. Plaintiff reincorporates by reference all of the preceding paragraphs.
12

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff respectfully prays that judgment be entered
15 against the Defendant for the following:
16

- 17 A. Declaratory judgment that Defendant's conduct
18 violated the FDCPA;
19 B. Actual damages;
20 C. Statutory damages;
21 D. Costs and reasonable attorney's fees; and,
22 E. For such other and further relief as may be just and proper.
23

24 **COUNT II: VIOLATION OF ROSENTHAL**
25 **FAIR DEBT COLLECTION PRACTICES ACT**

26 13. Plaintiff reincorporates by reference all of the preceding paragraphs.

27 14. To the extent that Defendant's actions, counted above, violated the
28 RFDCPA, those actions were done knowingly and willfully.

1 15. Further, §1788.17 of the RFDCPA mandates that every debt
2 collector collecting or attempting to collect a consumer debt shall comply with
3 the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to
4 the remedies in Section 1692k of, Title 15 of the United States Code statutory
5 regulations contained within the FDCPA, *15 U.S.C. §1692d, and §1692d(5)*.
6
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff respectfully prays that judgment be entered
10 against the Defendant for the following:
11

- 12 A. Declaratory judgment that Defendant's conduct
13 violated the RFDCPA;
14 B. Actual damages;
15 C. Statutory damages for willful and negligent violations;
16 D. Costs and reasonable attorney's fees,
17 E. For such other and further relief as may be just and proper.
18
19

20 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

21 Respectfully submitted this 5th day of April, 2011.
22

23 By: /s/ Todd M. Friedman
24 **Todd M. Friedman (216752)**
25 **Law Offices of Todd M. Friedman, P.C.**
26 **369 S. Doheny Dr. #415**
27 **Beverly Hills, CA 90211**
28 **Phone: 877 206-4741**
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 Attorney for Plaintiff